

## NORTH CAROLINA SOIL & WATER CONSERVATION COMMISSION MEETING MINUTES

**May 22, 2014**

Ground Floor Hearing Room  
Archdale Building  
512 N. Salisbury St  
Raleigh, NC

Commission Members	Others Present	
Vicky Porter	Pat Harris	Steve Bennett
Craig Frazier	David Williams	Robert Baldwin
Tommy Houser	Laura Parrish	Dr. Richard Reich
Charles Hughes	Natalie Woolard	Ed Spivey
John Langdon	Julie Henshaw	Michael Willis
Manly West	Kelly Ibrahim	Kristina Fischer
Bill Yarborough	Ralston James	Tom Ellis
	Ken Parks	Sandra Weitzel
	Tom Hill	Chester Lowder
<b>Commission Counsel</b>	Davis Ferguson	Dewitt Hardee
Phillip Reynolds	Lisa Fine	Kirsten Frazier
	Jeff Harris	Dick Fowler
<b>Guest</b>	Beth Hughes	Keith Larick
	Mark Forbes	Joe Hudyncia
	Shirley Ann Coleman	Kim Livingston
	J. Ben Knox	James Ferguson
	Sam Davis	Davis Anderson
	Mary Parker	Randy Smith
	Charles Hughes	Patrick Johnson
	Teresa Hice	Robert Mauldin
	Jasmine Owens	Barry Bloch

Chairwoman Vicky Porter called the meeting to order at 9:08 a.m. and charged the commission members to declare any conflict of interest, or appearance of conflict of interest, that may exist for agenda items under consideration, as mandated by the State Ethics Act. Commissioner Frazier declared a conflict for item #9A and announced that he would recuse himself from the vote.

Chairwoman Porter read the Statement of Economic Interest for Commissioner West.

### **1. Approval Of Agenda:**

Chairwoman Porter reviewed the agenda. Commissioner Frazier moved to approve the agenda with the removal of item number 7. This motion was seconded by Commissioner West. The motion carried.

**2. Approval of Minutes – March 19, 2014 Meeting:** The minutes of the commission meetings held on March 19, 2014 and March 24, 2014 were presented.

Commissioner Houser offered a motion to approve both of the above mentioned minutes from meetings conducted in March. Commissioner Yarborough seconded the motion. The motion carried.

## **IV. INFORMATIONAL ITEMS**

**3. Division Report:** Ms. Pat Harris, director of the Division of Soil and Water Conservation presented a report that included the following items:

- Welcomed new employee, Daniel Hamm, ATAC Program Assistant in Washington Regional Office.
- Welcomed new employee, Edwards Stephens, Soil Scientist in the Wilmington Regional Office.
- Described the new Cost Share Contracting System (CS<sup>2</sup>) and congratulated all the staff in the division, department, and districts who had a significant role in its development.
- Reported that district supervisor travel funds were exhausted April 30, with sufficient funds held to pay expenses for the May commission meeting and the School of Government training.
- Reported on the breakdown of expenditures through the division's budget for FY 2012-13, including the dollars leveraged through state investment in conservation.

Natalie Woolard presented the new process on streamlining requests for technical assistance by districts. The purpose of the new process is to:

- Streamline the process for district employees to submit technical assistance requests for improved efficiency and accountability by the division.
- Enable division management to better prioritize workload to best meet commission and district expectations.
- Allow division management to more equitably distribute workload statewide.

The handout for the division report is included as Attachment 3.

### **4. Association Report:**

Commissioner Langdon, NCASWCD President, presented a brief overview on the following:

- NACD Legislative Fly-In - March 25-26, 2014
- Market Based Conservation Initiative
- State Envirothon – April 25-26, 2014
- State Speech Contest – May 9, 2014
- Outstanding Conservation Farm Family Program
- Legislative Breakfast – May 22, 2014
- School of Government Training – May 20-21, 2014

- State-wide Survey Regarding Area Alignment – The online survey to gather input regarding Area alignment will remain active until June 1.

The handout provided for item 4 is attached and is an official part of the minutes.

## 5. NRCS Report:

Mr. Tim Beard called attention to the written report from NRCS that is included as Attachment 5.

He discussed that he had requested another \$4 million for EQIP in North Carolina, that there is \$15 million available for conservation technical assistance for FY-2014, and that Secretary Vilsack is scheduled to announce the release of the Regional Conservation Partnership Program today.

## V. ACTION ITEMS

### 6. Consent Agenda

#### 6A. Appointment of Supervisors

- Mike Temple; Carteret SWCD; filling the unexpired term of Dan W. Bowen
- Wendell (Wes) Leslie Schollander III; Forsyth SWCD; filling the unexpired term of Grover C. McPherson
- Cecil Robinson; Richmond SWCD; filling the unexpired term of Robert A. Hill, Sr.
- Robert D. Twomey; Transylvania SWCD; filling the unexpired term of Charles Bryson
- Anthony E. Mills; New Hanover SWCD; filling the unexpired term of Arthur W. Brownell

#### 6B. Supervisor Contracts

Contract No.	District	Supervisor Name	Practice(s)	Contract Amount
45-2014-803	Henderson	Daniel McConnell	Pond Sediment Removal	\$5,000
45-2014-804	Henderson	Daniel McConnell	Pond Sediment Removal	\$5,000
61-2014-013	Mitchell	Stephen Wilson	Cropland Conversion	\$388
74-2014-007	Pitt	Steve Sutton	Grassed Waterway	\$541
91-2014-767	Vance	Wilton Short	Sod Based Rotation	\$1,134
91-2014-768	Vance	Wilton Short	Sod Based Rotation	\$1,824
93-2014-014	Warren	Herman Collier	Field Border	\$1,200
43-2014-003	Harnett	John Gross (Supervisor in Lee SWCD)	Grassed Waterway/Terrace	\$1,232
43-2014-005	Harnett	John Gross (Supervisor in Lee SWCD)	Grassed Waterway	\$678
43-2014-013	Harnett	Jeffery Turlington	Cropland Conversion - Grass	\$2,003
62-2014-04	Montgomery	G. Boon Chesson	Critical Area Planting	\$1,687
87-2014-194	Swain	Thurman Walls	AgWRAP: Baseflow Interceptor/Stream side pickup	\$8,900

## **6C. Technical Specialist Designation**

### **Waste Utilization/Nutrient Management**

#### **On recommendation of the Director of the NC Cooperative Extension Service:**

James “Max” Knowles, CES, Sampson County

The handouts provided for items 6A-6C are attached and are an official part of the minutes.

Commissioner Yarborough offered a motion to approve the above appointments. Commissioner Langdon seconded the motion. The motion carried.

## **7. AgWRAP Recommendations**

This item was removed from the agenda.

## **8. ACSP Technical Review Committee Recommendations – Kelly Ibrahim**

Ms. Kelly Ibrahim called attention to the handout for items 8A-8C, which are attached as an official part of the minutes. She noted that the TRC met in Greenville on May 1 and approved the following recommendations for the commission’s consideration.

**8A. Odor Control BMP** – The TRC recommends modification to the Odor Control Management System practice to clarify that native grasses are an acceptable medium for intercepting particulates from livestock production houses. Commissioner Frazier moved to approve the changes with the strike of the words “poultry and swine” in the definition/purpose statement. Commissioner Hughes seconded the motion. The motion carried.

**8B. Livestock Feeding Area BMP** – The TRC recommends modifying the Livestock Feeding Area practice to clarify that the cost of a concrete push wall (if necessary) is not included under the cap on the cost of the concrete pad. Commissioner Frazier moved to approve the changes. Commissioner Houser seconded the motion. The motion carried.

**8C. Lagoon Biosolids Removal BMP** - The TRC recommends converting the Lagoon Biosolids Removal Incentive to a cost share practice and to change the maximum application rate to 50% of the recommended rate based on nitrogen. Commissioner Yarborough offered a motion to approve the TRC’s recommendation with the addition of the following statement to the intent of this practice: “For the intent of this practice, the definition and purpose of the NRCS Waste Treatment Lagoon standards shall be met.” Commissioner Frazier seconded the motion. Commissioner Langdon offered a friendly amendment that was acceptable to Commissioners Yarborough and Frazier to add the words “or exceeded” to the end of the language proposed by Commissioner Yarborough’s amendment. The motion was approved. Ms. Ibrahim asked whether it was the commission’s intent that these changes be effective this year, and that intent was confirmed.

## **9. District Issues –**

**9A. Contract Extension Request** – Commissioner Frazier stepped down from the commission as he presented the request for extension to AgWRAP contract 76-2012-804-02 on behalf of the Randolph District. Commissioner Houser moved to approve the extension request. Commissioner West seconded the motion. The motion carried.

**9B. Exception for Eligibility** – Wake District came to meeting to request an exception for eligibility. Wake District Supervisor Patrick Johnson and district staff Teresa Hice presented the request. Commissioner West moved to approve the exception. Commissioner Langdon seconded the motion. The motion carried.

**9C. Lenoir Contract and Request for Payments Approvals** – Ms. Ibrahim recognized Lenoir SWCD Supervisors Michael Robinson and Randy Smith and district staff David Anderson who were available to answer questions related to contract 54-14-05-09. Commissioner Frazier moved to approve the contract. . Commissioner Yarborough seconded the motion. The motion carried.

Technical Assistance Approval – The Lenoir District is also requesting commission approval for the 3<sup>rd</sup> quarter technical assistance invoice for the Lenoir SWCD. Commissioner Frazier moved to direct the division to proceed as usual for handling the technical assistance reimbursement request. Commissioner Langdon seconded the motion. The motion carried.

## **10. Lenoir SWCD Special Review Response**

Mr. David Williams referred to Attachment 10, which is included as an official part of the minutes. The Lenoir District has responded to the April 3, 2014 correspondence from Chairwoman Porter with an updated action plan to address the findings of the division's special review. The division sent a response back to the district on May 16, 2014 with some corrective actions and suggestions regarding the action plan.

As requested in Chairwoman Porter's letter District Chairman Michael Robinson and district staff David Anderson are present to answer any questions from the commission. Supervisor Randy Smith is also present.

Mr. Robinson expressed concern that the findings of the program review were sent to the Lenoir County Commissioners and the county manager before the district had an opportunity to respond. He asked whether this was normal protocol. He acknowledged mistakes on the part of the district and declared the district's willingness to work with the division to clean up the problems noted.

Mr. Robinson stated that he is concerned that Commissioner Hughes, who is also a Lenoir District Supervisor, should declare a conflict of interest for this agenda item. Chairwoman Porter responded that the commission members are charged to declare conflicts of interest at the beginning of each meeting, and Commissioner Hughes is aware of the requirement to do so if there is a conflict. Commission Counsel Phillip Reynolds confirmed that he had reviewed Commissioner Hughes situation and sees that there is no impermissible legal bias nor conflict of interest associated with Commissioner Hughes considering the business before the commission.

Commissioner Yarborough asked if all 5 supervisors have been involved in developing the district's action plan, and Mr. Robinson answered, "yes."

Commissioner Frazier and Mr. Williams noted that the division acknowledged that some of the contracts on the list noted in the report had been determined to be valid since the initial report was submitted in August 2013.

Commissioner Frazier noted a concern about contracts for cropland conversion that records indicate were already converted prior to the contract. Mr. Anderson said he personally looked at each field to confirm that the fields were not in grass prior to the contract. Mr. Anderson acknowledged several mistakes, but did not believe the cropland conversion contracts were converted to grass prior to the contract approval.

Chairwoman Porter stated that the commission sees the issues noted in the findings as serious.

Commissioner West asked why there is often a long lapse between board approval and submission to the division for approval. Mr. Anderson said that was his responsibility and that the action plan includes steps to address that concern. Commissioner Frazier asked what the district feels should be the commission's response to invalid contracts or post approvals. Mr. Anderson stated that the work called for in the contracts has been implemented in accordance with NRCS standards as required, but some of the work was implemented prior to all the required approval. He stated that he could not confirm that he tells every applicant of the requirement to not begin installation until he notifies them that the contract is fully approved.

Mr. Williams recommended that the sanctions approved by the commission in March should be amended to include a prohibition on using the \$3,500 vegetative exception which enables a cooperator to proceed with installation prior to division approval.

Commissioner Yarborough called attention to the finding that the contracts appear to be almost always implemented exactly as planned, which in his experience is not very realistic.

Commissioner Langdon asked about supervisor participation in spot checks. Mr. Anderson stated that supervisors are always involved. If the contract is a supervisor contract, then they make sure another supervisor participates.

Mr. Anderson stated that the commission should hold him accountable for the problems, not the farmers. He has acknowledged the mistakes to the Lenoir board who based their decisions on the information he put before them.

Mr. Anderson acknowledged that there were some contracts for which payments were approved for portions of fields that should have been deducted from the acreage shown on FSA maps.

Mr. Anderson pointed out that some of the contracts with issues were developed by NRCS personnel. Mr. Williams stated that the district is still responsible for cost share contracts no matter who actually developed the contract documents. Mr. Yarborough noted that the supervisors need to know they can trust the staff.

Mr. Williams referred to the district's action plan and the corrective actions communicated by the division with regard to the action plan. He noted that if the district will agree to all of the division's corrective actions, the action plan should be effective to address concerns going forward, but the

commission needs to consider what actions are needed to address the problems noted in the past. He noted that the board needs to recognize that the action plan is no small commitment.

Commissioner West asked whether the district was agreeable to the division's corrective actions, and Mr. Anderson and Mr. Robinson said they were.

Mr. Langdon commended the district for their effort to put the BMPs on the ground, but he also reminded the district that the programs are bigger than any district. One district's actions have a ripple effect on the other 95 districts. He has encouraged the supervisors across the state to get involved and to know what is going on in their district. He said the Lenoir supervisors need to raise the bar and expectations of their staff.

Commissioner Frazier moved to continue the interim procedures imposed in March until such time as the commission is convinced the district has fully addressed the noted issues and has regained confidence in the district's implementation of the cost share programs. He also moved to include a prohibition on using the \$3,500 vegetative exception in Lenoir and to require the district to implement the action plan including the division's corrective actions. Commissioner Houser seconded the motion. The motion passed.

Chairwoman Porter said the commission should receive the revised district action plan in July.

#### **11. Allocation of Animal Waste Funds**

Kelly Ibrahim presented information regarding allocating the remaining funds in the Animal Waste Account (\$5,386.00). The handout provided for item 11 is attached and is an official part of the minutes.

#### **VI. PUBLIC COMMENTS:**

Mr. Mike Willis, Caldwell SWCD Supervisor, asked the commission to allow them to present an extension request to contract 14-12-516-03. Chairwoman Porter said the commission will review that action at a future meeting.

Ben Knox, Rowan District Supervisor, stated that the Rowan District will be back at the next meeting to request an extension for the Piedmont Research Station.

#### **VII. ADJOURNMENT**

With no further business, Chairwoman Vicky Porter declared the meeting adjourned at 11:09 a.m.

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Patricia K. Harris, Director  
Division of Soil & Water Conservation, Raleigh, N.C.  
(Sign & Date)

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Laura E. Parrish, Recording Secretary  
(Sign & Date)

***These minutes were approved by the North Carolina Soil & Water Conservation Commission on July 16, 2014.***

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Patricia K. Harris, Director